

IC 34-47-3

Chapter 3. Indirect Contempt of Court

IC 34-47-3-1

Disobedience of process

Sec. 1. A person who is guilty of any willful disobedience of any process, or any order lawfully issued:

- (1) by any court of record, or by the proper officer of the court;
- (2) under the authority of law, or the direction of the court; and
- (3) after the process or order has been served upon the person;

is guilty of an indirect contempt of the court that issued the process or order.

As added by P.L.1-1998, SEC.43.

IC 34-47-3-2

Resisting or delaying process

Sec. 2. A person who willfully resists, hinders, or delays the execution of any lawful process, or order of any court of record is guilty of an indirect contempt of court.

As added by P.L.1-1998, SEC.43.

IC 34-47-3-3

Assaulting, influencing, or intimidating witnesses

Sec. 3. A person:

(1) who:

- (A) offers, gives, or promises any reward to;
- (B) threatens to assault or injure;
- (C) assaults or beats; or
- (D) in any other manner influences, intimidates, or attempts to influence;

any witness to give or abstain from giving testimony in any case, or to abstain from attending as a witness in any case;

(2) who does any act to put a witness in fear, on account of any testimony that the witness may have given; or

(3) who, on account of any testimony, injures or threatens to injure a witness;

is guilty of an indirect contempt of the court in which such witness may be called to testify, if the acts are done elsewhere, out of the presence of the court.

As added by P.L.1-1998, SEC.43.

IC 34-47-3-4

False or inaccurate reporting of case or proceeding

Sec. 4. (a) A person who falsely makes, utters, or publishes any false or grossly inaccurate report of any case, trial, or proceeding, or part of any case, trial, or proceeding is considered guilty of an indirect contempt of the court in which the case, trial, or proceeding was instituted, held, or determined, if made at any time:

- (1) after the proceeding commenced;
- (2) while the proceeding is pending;

- (3) while the court has jurisdiction; and
 - (4) before the proceeding is fully determined and ended.
 - (b) If a report described in subsection (a) is made:
 - (1) pending the case, trial, or proceeding; and
 - (2) concerning any ruling or order of the court;the person is considered guilty of an indirect contempt of the court making the ruling or order.
- As added by P.L.1-1998, SEC.43.*

IC 34-47-3-5

Service of rule upon defendant; procedure

Sec. 5. (a) In all cases of indirect contempts, the person charged with indirect contempt is entitled:

- (1) before answering the charge; or
 - (2) being punished for the contempt;
- to be served with a rule of the court against which the contempt was alleged to have been committed.

(b) The rule to show cause must:

- (1) clearly and distinctly set forth the facts that are alleged to constitute the contempt;
- (2) specify the time and place of the facts with reasonable certainty, as to inform the defendant of the nature and circumstances of the charge against the defendant; and
- (3) specify a time and place at which the defendant is required to show cause, in the court, why the defendant should not be attached and punished for such contempt.

(c) The court shall, on proper showing, extend the time provided under subsection (b)(3) to give the defendant a reasonable and just opportunity to be purged of the contempt.

(d) A rule provided for under subsection (b) may not issue until the facts alleged to constitute the contempt have been:

- (1) brought to the knowledge of the court by an information; and
- (2) duly verified by the oath of affirmation of some officers of the court or other responsible person.

As added by P.L.1-1998, SEC.43.

IC 34-47-3-6

Proceedings and appeal

Sec. 6. (a) If the defendant:

- (1) fails to appear in court at the time and place specified in the rule provided for in section 5 of this chapter, to answer the rule; or
- (2) appears in court, but fails or refuses to answer concerning the alleged contempt;

the court may proceed at once, and without any further delay, to attach and punish the defendant for contempt.

(b) If the defendant answers to the facts set forth in the rule by:

- (1) showing that, even if the facts set forth are all true, they do not constitute a contempt of the court; or

(2) denying, or explaining, or confessing and avoiding the facts, so as to show that no contempt was intended; the court shall acquit and discharge the defendant.

(c) If the defendant's answer to the rule does not sufficiently deny, explain, or avoid the facts set forth in the rule, so as to show that no contempt has been committed, the court may proceed to attach and punish the defendant for the contempt, by:

- (1) fine;
- (2) imprisonment; or
- (3) both fine and imprisonment.

(d) A defendant who appeared to respond to the rule may appeal to the court of appeals in the same manner as in cases of direct contempt.

As added by P.L.1-1998, SEC.43.

IC 34-47-3-7

Special judge; selection, powers, and duties

Sec. 7. (a) Except as provided in subsection (b), this section applies to all cases of indirect contempt of courts of this state, other than the supreme court or the court of appeals.

(b) This section does not apply to indirect contempts growing out of willfully resisting, hindering, delaying, or disobeying any lawful process or order of court.

(c) The court against which the alleged contempt was committed shall, at the time the rule to show cause is issued, nominate three (3) competent and disinterested persons, each of whom shall be an available judge or member of the Indiana bar, to be submitted to the parties in the action, from which the state, by the prosecuting attorney, and the defendant shall immediately strike off one (1) name each.

(d) The court shall appoint the person who remains unchallenged under subsection (c) to preside in the cause as special judge.

(e) If the prosecuting attorney, the defendant, or the defendant's attorney refuse to strike off the names under subsection (c), then the clerk of the court shall strike for them.

(f) If the person appointed under subsection (d) is an attorney and not a regular judge, and if that person consents to serve, the person shall be qualified as other judges. The person's appointment and oath shall be filed with the clerk and entered on the order book of the court. The appointed person may hear and determine the cause until the cause is disposed of.

As added by P.L.1-1998, SEC.43.

IC 34-47-3-8

Contempt of supreme or appellate courts; special commissioner; selection, powers, and duties

Sec. 8. (a) Except as provided in subsection (b), this section applies to all cases of indirect contempt of the supreme court or the court of appeals.

(b) This section does not apply to indirect contempt growing out

of willfully resisting, hindering, delaying, or disobeying any lawful process or order of court.

(c) The court against which the alleged contempt has been committed shall, at the time the rule to show cause is issued, nominate three (3) competent and disinterested persons, each of whom shall be an available judge or member of the Indiana bar, to be submitted to the parties in the action, from which the state, by the attorney general, and the defendant shall immediately strike off one (1) name each.

(d) The court shall appoint the person who remains unchallenged under subsection (c) a special commissioner of the court, who shall:

(1) hear the evidence in the cause; and

(2) report in writing to the court:

(A) findings as to the guilt or innocence of the cited person; and

(B) recommendations for punishment of the cited person, if the person is found guilty of contempt as charged.

(e) A report prepared under subsection (d) shall be filed with the clerk and entered on the minutes of the court.

(f) The appointed special commissioner shall qualify by accepting the appointment and taking the same oath as a regularly qualified judge, if the special commissioner is not a regularly qualified judge. The appointment and oath shall be filed with the clerk and entered on the minutes of the court.

(g) The special commissioner appointed under subsection (d):

(1) has full authority to examine the parties in the cause, upon oath, concerning all matters contained in the citation for contempt;

(2) may require the production of all books, writings, records, and other documents applicable;

(3) may examine under oath all witnesses produced by the parties and compel their attendance at the hearings of the cause; and

(4) may do all other acts and direct all other inquiries and proceedings in the matter necessary and proper to the justice and merits of the cause and the rights of the parties.

As added by P.L.1-1998, SEC.43.